

DATE: December 12, 2001

FILE REF: RR/3

TO: NR 445/NR 706 Advisory Group:
Mark Thimke Ed Willusz
Dan Daggett Jeff Schoepke
Kathleen Standen Caryl Terrell

FROM: Jay Hochmuth – AD/5

SUBJECT: Consolidation of ch. NR 445 and ch. NR 706, Wis. Adm. Code

I would like to thank you for your participation on the NR 445/NR 706 Advisory Group working to simplify and consolidate the notification requirements for air spills contained in chapters NR 445 and NR 706, Wis. Adm. Code. This has become a more difficult issue to address than had originally been anticipated.

By way of background, as currently structured, ch. NR 706 requires that when a hazardous substance release occurs (to air, lands or water), a series of questions must be answered to determine whether immediate notification requirements apply. First, if the release is below the permit level for that compound, no immediate notification is required. If a permit limit is exceeded, or if the release is for a compound which does not have a discharge limit specified in the permit, the determination of whether there are de-minimis exemptions that may apply must be made. If the release is above an applicable de-minimis exemption, or if there is no de-minimis exemption, immediate notification is required. If the release is less than an applicable de-minimis exemption, the determination of whether the discharge meets the criteria for exceptions to the de-minimis exemptions must be made. If the discharge threatens or potentially threatens public health, safety, welfare, or the environment (air, lands or water), immediate notification is required. If it does not, notification of the discharge is not required. Ch. NR 445, as currently structured, simply reiterates that notification of any release not in conformity with a permit shall be given as required by ch. NR 706.

Based on feedback from several members of the NR 445/NR 706 advisory group, our recent proposal to consolidate NR 445 into NR 706 does not have the support of the advisory group. While some believe the options presented by staff are too stringent, others believe that the existing reportable quantity exemptions are already too lax and should be revised to be more stringent. When we first established this group, our stated goal was to consolidate the spill notification requirements into one rule and clarify the notification requirements without changing the already existing spill notification requirements contained in NR 706. While the agency supports simplification and consolidation of its rules when possible, to do so without external support is not an efficient use of stakeholder or staff time.

Given this background, advisory group members are encouraged to submit additional proposals within the established goal as stated above, for agency consideration. If necessary, we will reconvene the advisory group to consider those proposals. The lack of consensus reached by the group only reflects the difficulty and complexity of the issues needing resolution and not the efforts of individuals on this group.

Your participation and time in this effort lead to very productive discussions that will lay the foundation for a consensus solution.

Based on the input from your group, the department recognizes that additional outreach with stakeholders

is needed on spill notification requirements, especially as they relate to air releases. We are hoping to continue to work with individual members of the advisory group in to develop and deliver a more extensive outreach effort.

Again, thank you for your time in working on this difficult issue. Robin Schmidt (608) 267-7569; schmirr@dnr.state.wi.us) and Jeff Myers (608) 266-2879; myersj@dnr.state.wi.us) will continue to be the staff contacts should you want to further discuss this issue.

cc: Dr. Henry Anderson – DHFS
Mark Giesfeldt – RR/3
Robin Schmidt – RR/3
Lloyd Eagan – AM/7
Caroline Garber – AM/7
Jeff Myers – AM/7